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TANJA E. AALBERTS

## THE SOVEREIGNTY GAME STATES PLAY: (QUASI-)STATES IN THE INTERNATIONAL ORDER

**ABSTRACT.** This article discusses the puzzle of sovereign statehood in the context of state failure and anarchy in Sub-Saharan Africa. In the first section it suggests to analyse sovereignty as a discursive fact in terms of a Wittgensteinian language game. This renders recognition a pivotal element and rejects foundationalist notions of sovereignty. The second section analyses the 'quasi-statehood narrative'. Whereas this narrative presents sovereignty as a game, it applies two different notions of games concomitantly. This article argues that the notion of quasi-statehood maintains an empirical kernel as the core of 'real' sovereign statehood and as such remains within the conventional sovereignty discourse. The epilogue states that such foundationalism is not an innocent analytical move. It shows how language can have far-reaching political impact in terms of legitimization of political actions, and how, ultimately, the conventional discourse drains international relations of its content. This will be illustrated by U.S. position to state failure in their War on Terrorism.

### 1. INTRODUCTION

To speak of sovereignty ... is never to name something that already is. It can never be to refer to some source of truth and power that is self-identical, that simply exists on its own, that goes without saying<sup>1</sup>

Paradoxically, the core concepts of IR work to drain international relations of their content!<sup>2</sup>

Despite (or due to!?) its death long and often foretold, sovereignty continues to boggle the minds of International Relations and International Law scholars and practitioners alike. Apart from issues like globalisation and European integration, it is the condition of postcolonial statehood, and more specifically its failures,

<sup>1</sup> Ashley, R.K. and Walker, R.B.J., "Conclusion: Reading Dissidence/Writing the Discipline: Crisis and the Question of Sovereignty in International Studies", *International Studies Quarterly* 34/3 (1990), 367–416, at 381.

<sup>2</sup> Barkawi, T. and Laffey, M., "Retrieving the Imperial: *Empire* and International Relations", *Millennium* 31/1 (2002), 109–127, at 112.



which keep us occupied. If sovereignty connotes a distinction between inside and outside, combining internal order with external anarchy, the lawlessness found within predominantly postcolonial states stands at loggerheads with everything sovereignty is believed to entail.<sup>3</sup>

Here too, 9/11 has left its mark. Not only has it pushed the fight against 'rogue states' again to the top of the international agenda,<sup>4</sup> it has also (re)confirmed the urgency of the problem of state failure in relation to the threat of terrorism. Whereas state collapse and failure formerly used to be regarded as the internal business of the respective states, and part of their responsibility as sovereign entities, now the acknowledgement has risen that state failure not only bears upon the well-being of the citizens concerned (which often has proven to be not good enough a reason for international action), but its implications reach further, i.e. to neighbouring states, regional security, and to the 'global society' at large. George W. has left no doubt about it: 'America is now threatened less by conquering states than we are by failing ones.' Indeed, in the National Security Strategy there is an explicit relationship between failing or weak states and terrorism: 'The events of September 11, 2001, taught us that weak states, like Afghanistan, can pose as great a danger to our national interests as strong states.'<sup>5</sup> That these are not issues of mere 'name-calling', follows from the direct link between the labelling and the legitimization of political actions: development assistance in the case of friends, containment in the case of foes.<sup>6</sup> If sovereignty counts both as a constitutive element of the international system, and a problem to be overcome,<sup>7</sup> in the aforementioned cases the focus is on the latter feature.

<sup>3</sup> For a standard (neorealist) formulation of the traditional distinction: Waltz, K.N., *Theory of International Politics* (Reading: Addison-Wesley, 1979). For a poststructuralist analysis, see Walker, R.B.J., *Inside/Outside: International Relations as Political Theory* (Cambridge: Cambridge University Press, 1993).

<sup>4</sup> For an account of the label 'rogue state', see W. Werner (this volume).

<sup>5</sup> The National Security Strategy, September 2002, available at [www.whitehouse.gov/nsc/nss.html](http://www.whitehouse.gov/nsc/nss.html).

<sup>6</sup> For analyses along these lines, see the contributions by R. Lippens and by R. van Munster (this volume). See also Bilgin, P., and Morton, A.D., "Historicising Representations of 'Failed States': Beyond the Cold-War Annexation of the Social Sciences?", *Third World Quarterly* 23/1 (2002), 55–80.

<sup>7</sup> Walker, R.B.J., "State Sovereignty and the Articulation of Political Space/Time", *Millennium* 20/3 (1991), 445–461, at 454.

As it would more aptly be described by an ‘image of international accord and civility and internal disorder and violence’,<sup>8</sup> the condition of postcolonial statehood in contemporary Sub-Saharan Africa indeed appears to turn the Westphalian rationale upside down and as such consists of a major challenge to the fundamentals of International Relations (IR) as a discipline. In this context one might wonder what meaning can be attributed to sovereignty, now that it can also signify its opposite, i.e. a zone of anarchy.<sup>9</sup> In order to come to grips with this puzzling situation, this article advocates a move away from foundational meaning and suggests to analyse sovereignty in terms of a Wittgensteinian (language) game (Section 2), which renders recognition a pivotal element. In addition, it sheds a different light on the predominant doctrine on recognition. The so-called quasi-statehood narrative appears to appreciate the pivotal role of recognition and as such appears suited to analyse sovereignty as a discursive fact.<sup>10</sup> However, whereas this persistent narrative has been celebrated for its clarifying insights in the institution of sovereignty, it will be argued that the analysis is entrenched in the conventional sovereignty discourse and participates in the reconstitution of its descriptive fallacy. As such, the analysis on quasi-statehood can serve as a representative of a generation of essentialist readings of sovereignty (Section 3). Linking this back to the issue of state failure in the era of terrorism, Section 4 will show that such essentialism is not an innocent conceptual fallacy, but has ideological consequences in terms of political legitimization of circumscribing alleged key elements of sovereignty itself.

## 2. SOVEREIGNTY AS LANGUAGE GAME

As a central concept in International Relations, sovereignty has not been short of attention. It can be conceived to have double significance: it fosters the distinction between domestic and international politics on the one hand, while it simultaneously provides the

<sup>8</sup> Jackson, R.H., and Rosberg, C.G., “Why Africa’s Weak States Persist: The Empirical and the Juridical in Statehood”, *World Politics* 35 (1982), 1–24, at 24. See also State Failure Task Force Report: Phase III Findings, September 30, 2000 – released August 4, 2003 (available at [www.cidcm.umd.edu/inscr/stfail](http://www.cidcm.umd.edu/inscr/stfail)).

<sup>9</sup> Doty, R.L., *Imperial Encounters: The Politics of Representation in North-South Relations* (London: University of Minnesota Press, 1996), at 148.

<sup>10</sup> The main analysis of this narrative is Jackson, R.H., *Quasi-States: Sovereignty, International Relations and the Third World* (Cambridge: Cambridge University Press, 1990).

exclusive terms of reference to bridge the divide on the other.<sup>11</sup> As such it is often taken for granted as a core feature of states as the main actors on the international plane. In conventional readings sovereignty is rendered a matter of fact that can be measured and determined (positivist empiricism). The focus is then on

‘identifying a class of properties as “essential” to statehood, thus demarcating “sovereignty” from deviant cases and eliminating obnoxious borderline cases by searching for ever more finegrained qualitative difference. The desired outcome is a clarified concept, evident in its logical purity and by the empirical givenness of its referent’.<sup>12</sup>

To put it differently, these readings apply an ‘image-like’ analysis of sovereignty, rendering sovereignty a descriptive concept that mirrors a corresponding state of affairs in reality, which exists independently of this representation.<sup>13</sup>

From the late 1980s onwards critical analyses emerged which questioned the common practice of reification of the state within the discipline.<sup>14</sup> Moving away from positivism, these approaches emphasised the intersubjective nature of sovereignty, which consequently should be validated as an institutional fact,<sup>15</sup> constructed within and existing on account of a wider discursive framework. Ensuing, the meaning of sovereignty is dependent upon its *use*. While this meaning is often presented as being fixed, we need to appreciate the practices and discourses underlying and constituting the institution, in order to conceal the intersubjective disposition of sovereignty: ‘In effect, sovereignty is a practical category whose empirical contents are not fixed but evolve in a way reflecting the active

<sup>11</sup> Caporaso, J.A., “The European Union and Forms of State: Westphalian, Regulatory or Post-Modern?” *Journal of Common Market Studies* 34/1 (1996), 29–52, at 35.

<sup>12</sup> Bartelson, J., *A Genealogy of Sovereignty* (Cambridge: Cambridge University Press, 1995), at 14–15.

<sup>13</sup> For such a reading, see Krasner, S.D., *Sovereignty: Organized Hypocrisy* (Princeton: Princeton University Press, 1999) and Thomson, J.E., “State Sovereignty in International Relations: Bridging the Gap Between Theory and Empirical Research”, *International Studies Quarterly* 39/2 (1995), 213–233. On the descriptive fallacy, see Werner, W.G., and de Wilde, J.H., “The Endurance of Sovereignty”, *European Journal of International Relations* 7/3 (2001), 283–313.

<sup>14</sup> For a classical definition of reification, see Berger, P.L., and Luckmann, T., *The Social Construction of Reality. A Treatise in the Sociology of Knowledge* (London: Penguin, 1991 [1966]), at 106.

<sup>15</sup> For a definition of institutional facts, see Searle, J.R., *The Construction of Social Reality* (New York: Free Press, 1995), at 27.

practical consensus among coreflective statesmen'.<sup>16</sup> It is in this context that we should take the statement that sovereignty *never goes without saying*<sup>17</sup> literally. And hence it is fruitful to analyse sovereignty in terms of a language game.

Ultimately, the analogy of language as a game relates back to the later Wittgenstein. In fact, the move from positivism to post-positivist approaches in IR theory resembles the shift Wittgenstein made in his analysis of language as a neutral medium to represent the outer world (correspondence notion) in the *Tractatus Logico-Philosophicus* (1922), to the role of language in the construction of that very reality in *Philosophical Investigations* (1958).<sup>18</sup> As such, language is not just an instrument to attach labels to the independent reality 'out there'. Rather, it is itself a form of action. Subsequently, in his later work the emphasis is on *meaning in use*: 'the meaning of a word is its use in the language' (*PI* I, para 43). In order to explicate this, Wittgenstein compares language use to making a move in a game. Crucial to this game analogy is that (structures of) meaning and understanding depend on a system of shared rules. Without knowing the rules, one cannot grasp the meaning and rationality of the action that is observed.

To understand the relationship between language–action–meaning, one needs to differentiate between types of rules. Drawing upon Wittgenstein, Searle elaborates this relationship in terms of 'speech acts' and distinguishes between regulative and constitutive rules.<sup>19</sup> The former consist of everyday rules, which merely regulate activities, which exist independent of and prior to these rules. With constitutive rules, it is the rules that constitute the fact – they are the *conditions of possibility* of the very activity, which could not happen or 'be' except for the defining rules (as set out by language). In this second sense words are constitutive of the world and hence can be conceived as deeds. Reality is not ready-made, but is constructed, and made intelligible, through our categorisations: 'We construct worlds we know in a world we don't'.<sup>20</sup>

<sup>16</sup> Ashley, R.K., "The Poverty of Neorealism", *International Organization* 38/2 (1984), 225–286, at 272–273, n101.

<sup>17</sup> See the epigraph to this paper by Ashley and Ruggie.

<sup>18</sup> See also Fierke, K.M., "Links Across the Abyss: Language and Logic in International Relations", *International Studies Quarterly* 46 (2002), 331–354.

<sup>19</sup> Searle, *Supra* fn.15, at 27–28.

<sup>20</sup> Onuf, N.G., *World of Our Making: Rules and Rule in Social Theory and International Relations* (Columbia: University of South Carolina Press, 1989), at 94, 36, 38.

Hence, rather than focusing on a universally valid definition that fixes the meaning and content of sovereignty, the challenge lies with elaborating how the meaning of sovereignty is negotiated out of intersubjective actions within a normative framework, and how these practices (re)construct state sovereignty.<sup>21</sup> Sovereign statehood does not exist independent of and prior to (state) practice and international law, as its scope and meaning are constituted and regulated by diplomatic practice and international legal discourse. As such sovereignty is both the *medium* and the *outcome* of the practices of states.<sup>22</sup> In the final analysis, what facilitates entities to behave as sovereign states is the fact that other states allow them to, and accept them as equals. This in turn renders recognition as the pivotal element for the existence of sovereign states within the international society.

In international jurisprudence the predominant position with regard to recognition is the declaratory doctrine. According to this reading an entity is a state when – as soon as – it meets the empirical features linked to statehood, as listed in article 1 of the Montevideo Convention (1933): ‘The State as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with other states’.<sup>23</sup> In this case, recognition is but an affirmation of a pre-existing fact of statehood. As such it provides evidence that a sovereign state has come into being, but it is itself not instrumental of that birth.<sup>24</sup> Hence, statehood is legitimised by the *fact* of its existence rather than by the *act* of recognition as such. As has been stated very clearly by the Arbitration Commission on Yugoslavia: ‘the existence... of the state is a question of fact [and] the effects of recognition by other states are purely declaratory’.<sup>25</sup> Ultimately, then, sovereign statehood is based upon a corresponding state of affairs in reality, thus a descriptive concept.

However, drawing upon the above discussion of sovereignty as a (language) game, it is not the facts that take the lead. After all, which facts count in the first place is dependent upon the wider discursive

<sup>21</sup> See Biersteker, T.J., and Weber, C., “The Social Construction of State Sovereignty”, in C. Weber and T.J. Biersteker (eds), *State Sovereignty as Social Construct* (Cambridge: Cambridge University Press, 1996), 1–21, at 11.

<sup>22</sup> Bartelson, J., *Genealogy*, *Supra* fn. 12, at 47.

<sup>23</sup> 135 LNTS, 1936, 19.

<sup>24</sup> Grant, T.D., *The Recognition of States. Law and Practice in Debate and Evolution* (Westport: Praeger, 1999), at xx.

<sup>25</sup> Opinion No. 1 (92 ILR at 162, 165).

context. As such it could be argued that recognition, to amend or specify Kelsen's famous definition, implies the ascertainment of a 'not-yet-existent fact'.<sup>26</sup> Important to note is that (recognition as) 'state in the sense of international law' is indeed the ascertainment of a fact, but, and this is the crucial twist, that fact does not exist prior to its ascertainment. Which, actually, renders it genuinely constitutive – it creates, rather than merely regulates, the very possibility of sovereign statehood, which does not exist prior to the statement of recognition. Characteristic of constitutive rules is that they enable what they appear to describe.<sup>27</sup> As such, recognition is not a function of 'empirical statehood'. Rather, the relationship is the other way around: the international society distributes these alleged qualities of '(sovereign) statehood' to different entities. This renders recognition indeed a political act and a tool of statecraft.<sup>28</sup> In this context law serves as an instrument to distribute and discipline. Hence can be maintained that it is the norm that creates the fact. The criteria for and practices of recognition change depending on developments within international society, but the constitutive nature of the rule, i.e. (consequences) of recognition, remains.

This role of changing norms for recognition of sovereign statehood is indeed claimed to be pivotal in the emergence of so-called quasi-states in the aftermath of a post-war moral revolution in the international society.

### 3. THE QUASI-STATEHOOD NARRATIVE

Starting from the crisis of representation of sovereignty, the analysis of 'quasi-statehood' presents an account of the emergence of newly independent states during the process of decolonisation of the African continent. This narrative revolves around a distinction between empirical and juridical statehood. Central claim is that former African colonies came into independent existence merely as juridical states based on recognition by the international community, while they '... do not disclose the empirical constituents by which

<sup>26</sup> As an advocate of the constitutive doctrine, Kelsen has described recognition as '[t]he procedure provided by general international law to *ascertain the fact* "state in the sense of international law"', in a concrete case.' (Kelsen, H., *Principles of International Law* (New York: Holt, Rinehart, Winston, 1966)).

<sup>27</sup> See Werner and de Wilde, *Supra* fn. 13, at 291.

<sup>28</sup> See Grant, *Supra* fn. 24.



*real* states are ordinarily recognized.<sup>29</sup> Hence they are labelled quasi-states. As juridical entities these states possess the same external rights and obligations as other states, but this international personality has been detached from any (other) empirical prerequisites. Thus, with the emergence of these quasi-states the rules of the alleged 'sovereignty game' have been transformed, or it is argued.<sup>30</sup> The classical, positive criteria of sovereign self-government have been abandoned, and decolonisation became much ado about nothing: it had ceased to be a substantive enterprise and became a formality focused on the transfer of so-called negative sovereignty, that is 'freedom from outside interference: a formal-legal condition'.<sup>31</sup> Many of these new-born states did (and do) not expose anything close to 'substantial and credible statehood' in terms of the empirical criteria of classical international law, hence the 'juridical cart is now before the empirical horse. . . [which] has changed the character of the sovereignty game fundamentally and irrevocably'.<sup>32</sup>

The notion of the 'quasi-sovereignty game' at first glance seems well reconcilable with an understanding of sovereign statehood as a discursive fact. After all, it is all about the acknowledgement of recognition by fellow-states as crucial and intersubjective element in the emergence of quasi-states, rendering membership of the international society literally of existential importance. The new game indeed appears to acknowledge that the identities of postcolonial subjects are formed within a historically specific discursive framework. By breaking the link between status (right to sovereignty) and capacities (empirical statehood), the new rules appear to entail a shift away from the 'Westphalian commonsense'<sup>33</sup> of sovereign statehood and move beyond the declaratory doctrine. However, this uncoupling might not be as absolute as it seems. Underlying the practice of quasi-statehood is an assumption that at a later stage positive sovereignty will (have to) be developed. African states are *quasi*-states because,

<sup>29</sup> Jackson, R.H., "Quasi-states, Dual Regimes, and Neoclassical Theory: International Jurisprudence and the Third World", *International Organization* 41 (1987), 519–549, at 526 [italics added, TEA].

<sup>30</sup> Jackson, *Supra* fn. 10, at 1, 4, 21, 23.

<sup>31</sup> Jackson, *Supra* fn. 10, at 97, 27.

<sup>32</sup> Jackson, *Supra* fn. 10, at 23–5.

<sup>33</sup> This term is derived from Grovogui, S.N., "Regimes of Sovereignty: International Morality and the African Condition", *European Journal of International Relations* 8/3 (2002), 315–338.

for the time being, they lack the features of what is called empirical statehood: they possess

... 'juridical statehood' derived from a right of self-determination – negative sovereignty – without *yet* possessing much in the way of empirical statehood, disclosed by a capacity for *effective* and *civil* government – positive sovereignty.<sup>34</sup>

Quasi-statehood could only be a temporary device for allowing the newly independent entities an entry into the international order. Such a claim would have to be 'made good' through the development of substantial statehood, or else these entities would 'fail'. This in turn shows an (implicit) notion of a 'scale of statehood' underlying the analysis, and hence the modern discourse of progress, development and civilization in accordance with the Western state-model.<sup>35</sup>

More crucially in the light of the previous discussion on sovereignty as a language game, is the question of what constitutes this benchmark of 'real statehood'. Allegedly, in the classical game the juridical cart was right where it logically belongs – *behind* the empirical horse. Players within the classical game are those 'who are endowed with domestic authority and power and are therefore credible internationally: empirical statehood.'<sup>36</sup> Hence, (classical sovereign) states exist prior to the game – are not defined by the game – which is only called into existence to ease their relationships. The game then merely *regulates* pre-existing activities (namely, international intercourse) of pre-existing actors, and the constitutive character with regard to the players as such is lost. As such international law (be it natural or positive) is the child and not the parent of states, and it presupposes the existence of 'empirical states'.<sup>37</sup> In this reading, the traditional sovereignty game is defined by classical, given states, which in turn define and change the game for the new entries.

Consequently, it can be argued that two rather different notions of games are used concomitantly, i.e. a rational choice game in the case of the 'classical sovereignty game', and a language game (in the sense of speech act theory) with regard to the postcolonial states.<sup>38</sup> This

<sup>34</sup> Jackson, *Supra* fn. 29, at 529 [italics added, TEA].

<sup>35</sup> See also Doty, *Supra* fn. 9, at 155.

<sup>36</sup> Jackson, *Supra* fn. 10, at 38.

<sup>37</sup> Jackson, *Supra* fn. 10, at 52–53.

<sup>38</sup> For a theoretical dialogue between rational choice and constructivism on their notions of games, see Fierke, K.M., and Nicholson, M., "Divided by a Common Language: Formal and Constructivist Approaches to Games", *Global Society* 15/1 (2001), 7–25.

latter case entails a notion of the intersubjective quality of (quasi-) states, and appreciates the constitutive function of the game in relation to the very being of the new players. Postcolonial states as such are not self-standing structures, as their domestic foundations are supported from above by international law – for the time being, at least. The classical game, on the other hand, resembles a more instrumental notion of games, where the identity of actors is given and the game is played to ‘order the relations of states, prevent damaging collisions between them, and... regulate the conflicts and restore the peace. Playing is... pursuing foreign policy goals’.<sup>39</sup> Similar to rational choice game theory, the actors are explicitly said to exist prior to and independent of *any* game, and the old sovereignty game is only regulative: it does not define its own players, but merely organises their interactions. To put it differently, in this reading the sovereignty game did not exist prior to Westphalia, *because* the central players (i.e. states) did not exist. However, were the constitutive nature of sovereign statehood fully appreciated, the argument would be that the game did not exist, *hence* players did not exist. As such it is not recognised that the classical game is just as ‘existential’ as the alleged new game – it is about enabling one’s very being, creating the conditions of possibility of ‘(sovereign) being’ at all.

Hence an essentialist notion of (empirical) statehood emerges from this, at first sight innovative, analysis, too. Whereas the concept of quasi-statehood draws attention to the fact that, contrary to the disciplinary commonsense, sovereignty is *not* a unitary category with a transhistorical, universal foundation,<sup>40</sup> it wrongly maintains an empirical kernel as the core element of ‘real’ sovereign statehood. Capacities are not disposed of, and basically sovereignty is demarcated from deviant cases by focusing on approximation to the empirically given referent: the modern, western state.<sup>41</sup> Quasi-statehood then consists of a provisional aberration of the limited and reifying conception of the state as an ahistorical, universal entity, allowed for by the accommodating environment. As such, the analysis stays within the conventional sovereignty discourse, linking sovereignty to empirical features (if not *prerequisites*), hence covering up the discursive quality of

<sup>39</sup> Jackson, *Supra* fn. 10, at 36.

<sup>40</sup> See also Doty, *Supra* fn. 9, at 149.

<sup>41</sup> See also Sidaway, J.D., “Sovereign excesses? Portraying postcolonial sovereigntyscapes”, *Political Geography* 22/2 (2003), 157–175, at 166.

sovereignty, as a continuous 'work-in-progress'. For sovereign statehood, both in its 'classical' and 'quasi' variants, is a discursive fact which depends on the constant maintenance, defence, attack, reproduction, undermining and relegitimation through widely circulated practices by diplomats, scholars and the like, which in turn settle its empirical contents.<sup>42</sup> Both classifications depend on an intersubjective understanding of entities, which are constituted by this very agreement.

In this sense, the modern state is not anymore 'real' than so-called quasi-states. Such a post-positivist perspective then renders the depiction of a (progressive) continuum or scale of statehood without a theoretical basis. Alleged 'pariahs' like quasi, failed and rogue states are as much part of the sovereignty discourse as the 'empirical state' (and vice versa). They are considered deviant cases within a particular discursive framework, and in relation to a (more or less implicit) prototype. Ignoring this context leads to the depiction of sovereignty as an empirical and neutral concept, and conceals that 'quasi' (or 'rogue', or 'failed') is a normative and quintessentially political predicate. While the process of decolonisation is generally conceived to entail the globalisation of sovereign equality, and as such to differ dramatically from former imperial practices,<sup>43</sup> notions of quasi-statehood arguably consists of imperialism by other means. Indeed history seems to repeat itself, as there have been calls for neo-colonialism in order to save failed states from worse – and, ultimately, from themselves.<sup>44</sup>

#### 4. EPILOGUE

No doubt, sovereign statehood has proved to be a rather enduring (stubborn) institution. Despite (indeed, due to!) its death repeatedly foretold, it appears to live ever after – in some cases more happily than in others, but that is beside the point here. Arguably, it is this durability that has made conventional approaches oblivious to the intersubjective core of these facts, resulting in reification of the sovereign state. This paper has argued that the quasi-statehood narra-

<sup>42</sup> Walker, *Supra* fn. 3, 168; and Ashley, *Supra* fn. 16, at 272–273, n.101.

<sup>43</sup> Jackson, *Supra* fn. 29, at 520.

<sup>44</sup> See f. i. Helman, G.B., and Ratner, S.R., "Saving Failed States", *Foreign Policy* 89 (1992), 3–20. For critical analyses of such representations of postcolonial states, see e.g. Bilgin and Morton, *Supra* fn. 6; Doty, *Supra* fn. 9.

tive, too, bears upon the notion of sovereign statehood as 'pure presence, already in place', and as such re-establishes the problematic foundation on which sovereignty allegedly rests.<sup>45</sup> Consequently, rather than challenging the conventional sovereignty discourse, this narrative effectively participates in the re-legitimation of its imposition. Both the classical state and its postcolonial replication are reified, and hence the crisis of representation is re-established. Indeed, given the assumed empirical kernel of 'real statehood' this discourse renders sovereignty an institution that exists apart from international practice. As such, it drains international relations of its content.

From the above discussion of sovereignty in terms of a language game it follows that shifting the attention away from the traditional, essentialist question of what sovereignty *is* and the attendant allegedly 'neutral' way of depicting sovereignty, to '*how* does it work', opens up a new and potentially more fruitful empirical agenda. When research focuses on what sovereignty *does*, it can expose how state practice indeed applies the prototype of the Westphalian state in order to discipline the members of the international order. The discursive fact of sovereignty serves as a constitutive norm. However, whereas this nullifies the essentialist distinction between the instances of statehood, it does not render them void of meaning within the international practice and legal discourse. Such a focus helps to return substance to international relations by considering the power relations that underlie the notion of sovereignty and quasi-sovereignty, and the rights and duties states are subject(ed) to when they are designated as 'rogue', 'quasi', or 'failed' states. As such, 'sovereignty' does not only entail an international status with complementary rights – it also ensues subjectivity, which can be used to discipline states on the basis of the Westphalian ideal-type. In this sense words 'act' not only in terms of bringing about sovereign identity, but certain labels serve to legitimise political actions. This dynamic is clearly at work in the war on terrorism. Not only has the US extended its blacklist of 'rogue states', it is also said to have launched a 'new theory on Failed States'. According to this theory, the definition of state failure should be extended to include those states which have a high level of unemployment, lack a good educational system, and where development falls short. These circum-

<sup>45</sup> Ashley, R.K., "Untying the Sovereign State: A Double Reading of the Anarchy Problematique", *Millennium* 17/2 (1988), 227–262, at 231; Doty, R. L., *Imperial Encounters*, *Supra* fn. 9, at 151.

stances would provide potential breeding nests for terrorism, and as such failed, or weak, states are identified as direct threats to American national security. Consequently, this justifies unilateral military actions, or so it is argued.<sup>46</sup> In short, failing to meet standards of 'empirical statehood' would legitimise the deferral of the key constitutive principle of the international society of sovereign states: non-intervention.

Hence, applying an essentialist notion of sovereign statehood, distinguishing between 'real' and 'quasi'-states is not an innocent conceptual fallacy. It conceals sovereignty as a political practice, and as such drains international relations of its content. Subsequently, it also closes off the possibility to think of international community and responsibility in non-sovereign terms. In relation to quasi-states and state failure, it moves the attention away from the international scene, and ignores the role of the external environment. In case of state failure this holds that the cause and responsibility is an internal one. If and when the role of the international community is included, this is in a rather positive way, as the benevolent, the 'good citizen' who will help the postcolonial states out.<sup>47</sup> Again, we might feel tempted to add. For what is at stake, in the end, is nothing less than how to deal with a practice which at least has the appearances of (neo)colonialism in a postcolonial age, under the veil of sovereign equality.

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<sup>46</sup> Khor, M., "Failed States 'Theory Can Cause Global Anarchy'", *Third World Network*, [www.twinside.org.sg/title/et0125.htm](http://www.twinside.org.sg/title/et0125.htm).

<sup>47</sup> Doty coins the term "benevolent imperialism" (*Supra* fn. 9, at 153).